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6 **UNITED STATES DISTRICT COURT**
7 **DISTRICT OF NEVADA**

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9 UNITED STATES OF AMERICA,

2:16-cr-00100-GMN-PAL

10 Plaintiff,

MOTION TO CONTINUE TRIAL DATE
(First Request)
EXPEDITED BRIEFING REQUESTED

11 vs.

12 JAN ROUVEN FUECHTENER,

13 Defendant.

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17 The United States of America, through the undersigned, respectfully moves the

18 Court for a continuance of the trial and respective pre-trial deadlines in the above-

19 captioned matter, currently set for June 6, 2016. ECF No. 28.

20 AUSA Silva is set to start a trial on May 23, 2016 before the Honorable Kent J.

21 Dawson in *United States v. Savanh* (2:14-cr-290). The Government's case-in-chief is is

22 expected to last approximately three days. Preparation for that trial has limited the

23 availability of the undersigned to prepare for the instant trial, and will hinder the

1 undersigned from meeting the currently set May 26 pre-trial deadline. Additionally,
2 AUSA Silva is traveling outside the District from May 30, 2016 to June 5, 2016, and
3 will not be available for the currently set May 31, 2016 calendar call.

4 Defendant's counsel recently filed a motion to meet in an open air room with his
5 client at the Henderson Detention Center to converse with and review discovery with
6 both retained attorneys. ECF No. 27. That motion is currently pending, and the
7 Government's response is not due until June 2, 2016, after the currently set May 31,
8 2016 calendar call date. AUSA Roohani is diligently working to respond to the motion.
9 However, adequately responding to the motion and coordinating with the United
10 States Marshals Service will likely require the full response time.

11 Based upon the Defendant's motion, the Government is seriously concerned
12 about whether the defense has had an adequate opportunity to personally review the
13 discovery in this case, and to consult with his client about that discovery. The
14 discovery in this case consists of several forensic reports of numerous electronic
15 devices, all of which contain child pornography at the center of this case. These reports
16 have been ongoingly provided to defense counsel, and one new forensic report was
17 completed only days ago and made available to defense counsel yesterday. Although
18 Government counsel has attempted to ascertain whether Defense Counsel or his client
19 would object to a continuance to allow adequate preparation for trial, there has been no
20 clear response.

21 The Speedy Trial Act, as enumerated in Title 18, United States Code, Section
22 3161(h), denotes the time period that shall be excluded from computing the time in
23 which time must commence. *See* 18 U.S.C. § 3161(h). The Government respectfully
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1 requests that the Court grant this motion to continue based on: (1) the unavailability of
2 the Government's attorney; and (2) the Defendant's pending motion to review discovery
3 with the client.

4 The Government submits that pursuant to 18 U.S.C. § 3161(h)(7)(B), that the
5 ends of justice are met by granting a continuance, and such action outweighs the best
6 interest of the public and the defendant in a speedy trial.

7 Accordingly, the United States respectfully requests the Court continue trial in
8 this matter and to reset the case to a date and time which is convenient to this court,
9 as well as to toll time as appropriate under Title 18, United States Codes, Sections
10 3161(h)(3)(A) and (7)(A).

11 DATED this 19th day of May, 2016.

12 DANIEL G. BOGDEN
13 United States Attorney

14 //s//

15 CRISTINA D. SILVA
16 ELHAM ROOHANI
17 Assistant United States Attorneys

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

UNITED STATES OF AMERICA,

2:16-cr-00100-GMN-PAL

Plaintiff,

ORDER

vs.

JAN ROUVEN FUECHTENER,

Defendant.

ORDER

After considering Government's motion to continue to the trial date, the Court hereby finds:

1. That denial of this request could result in a miscarriage of justice and the ends of justice served by granting this request, outweigh the best interest of the public and the defendant in a speedy trial.

2. That the additional time requested by this motion is excludable in computing the time within which the trial herein must commence pursuant to the Speedy Trial Act, Title 18, United States Code, Section 3161(h)(1)(D), and considering the factors Title 18, United States Code, Sections 3161(h)(7)(A), (B)(i) and (iv).

3. That this is the first motion to continue the trial date.

THEREFORE, IT IS HEREBY ORDERED that the Government's Motion to Continue is GRANTED and that the calendar call and trial in the above-captioned matters currently scheduled for May 31 at 9:00 am, and June 6, 2016 at 8:30 am

1 respectfully, be vacated and continued to a date and time convenient to this court, that
2 is calendar call _____, _____, at _____ a.m. and
3 trial _____, _____, at _____ a.m.
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5 _____
6 THE HONORABLE GLORIA M. NAVARRO
7 CHIEF U.S. DISTRICT COURT JUDGE
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